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**MRN:** [20 STATE 20556](#)  
**Date/DTG:** Feb 25, 2020 / 252325Z FEB 20  
**From:** SECSTATE WASHDC  
**Action:** KABUL, AMEMBASSY *IMMEDIATE*  
**E.O.:** 13526  
**TAGS:** CVIS, PGOV, PREL, AF  
**Captions:** SENSITIVE  
**Pass Line:** Pass to A/COM Donna Welton and Consul General [REDACTED]  
**Subject:** Transfer of Afghan Child

**1. (SBU) Summary:** The Government of Afghanistan has requested that the United States transfer into its custody a baby recovered by U.S. forces following a military operation in [REDACTED], Afghanistan in September 2019. Since September, the baby has received medical treatment and care at Bagram Airfield's Craig Hospital. Although a U.S. service member and his wife obtained a Virginia court order in November awarding them "custody" of the baby, the Department, after consulting with interagency policy principals and lawyers, has decided that the transfer should move forward as detailed below. End summary.

**2. (SBU) Family reunification process in Afghanistan:** The Government of Afghanistan's request resulted from a lawful process for family reunification under international and Afghan law. In the months following the recovery of the baby, the U.S. Embassy, U.S. forces, the Government of Afghanistan, and the ICRC have been working to locate and reunite the child with her extended family. On December 31, 2019, the Government of Afghanistan's Ministry of Labor and Social Affairs (MOLSA), the responsible agency under Afghan law, shared the results of its investigation with U.S. Embassy Kabul, explaining its conclusion that there are both maternal and paternal uncles and a sister living in [REDACTED]; that a DNA test is not required under Afghan regulations; and that it has confirmation through the community and others in the Afghan Child Protection Network that these are legitimate relations. On February 9, 2020, MOLSA formally requested that the United States transfer the baby to MOLSA for family reunification with the baby's relatives, noting that the ICRC would help facilitate travel of the child from Bagram Airfield.

**3. (SBU) Virginia custody order:** The Virginia custody order in favor of an individual U.S. servicemember and his wife, which was issued on November 6, 2019, is flawed in a number of respects. It relies in part on assertions that the baby was stateless and that the Government of Afghanistan was in the process of issuing a waiver to consent to the United States acting on behalf of the child. Yet MOLSA concluded that the child is Afghan, and no such waiver was issued by the Government of Afghanistan. In these circumstances, it is unclear on what basis

the court had jurisdiction to adjudicate the custody claim. And although the couple has not sought to go through the inter-country adoption process, the requirements for U.S. prospective adoptive parents seeking to adopt a child from Afghanistan have not been met.

**4. (SBU) Way Forward:** The Department has significant foreign policy concerns about any further delays in transferring the child to the Government of Afghanistan in response to its request, including security concerns and concerns about the perception of the U.S. government holding an Afghan child against the will of her extended family and the Afghan government. After extensive consultations, interagency lawyers have concluded that [REDACTED]

They have also advised that [REDACTED]

[REDACTED] the Department has decided to approve moving forward per the course of action specified below:

Tuesday, February 25, 2020	Notification to Government of Afghanistan and ICRC	U.S. Embassy Kabul notifies MOLSA of expected transfer date and begins setting up air transport logistics, including coordination with ICRC as directed by MOLSA.
Wednesday, February 26, 2020, 4PM EST	Notification to U.S. service member	Department of Defense meeting with U.S. servicemember and his counsel, in coordination with other interagency lawyers, to (1) acknowledge family's compassion for child and encourage that matter be resolve amicably; (2) notify of decision to move forward with transferring baby to Government of Afghanistan for family reunification in response to MOLSA's request; (3) provide explanation of international law framework and note issues with Virginia court order.
Wednesday, February 26, 2020, 6PM EST	Department of Defense authorization	Department of Defense directs USFOR-A Headquarters and Craig Hospital staff to facilitate transfer of child to Embassy officials at Bagram Air Force Base on the morning of February 27, for purposes of transferring child to MOLSA for family reunification.
Thursday, Feb. 27, 10:30AM Kabul time	Transfer of baby to Government of Afghanistan for family reunification	Embassy and USFOR-A staff take helicopter from RS Headquarters to Bagram Air Force Base, where ICRC is waiting with plane. Disembark helicopter. Proceed to hospital with ICRC. Handover of infant from Craig Hospital medical staff to Embassy officials. Embassy officials hand child to ICRC staff. ICRC departs in plane for [REDACTED] Embassy/USFOR-A personnel take helicopter back to RS compound. MOLSA officers

		meet ICRC plane in [REDACTED] and reunite child with next of kin there.
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**5. (SBU) Representation of U.S. officials:**

[REDACTED]

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**Signature:** Pompeo

**Drafted By:**

SCA\_A [REDACTED]

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